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**Charles W. McKee**  
Director  
Government Affairs – Federal Regulatory

April 20, 2007

***Via Electronic Submission***

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street, S.W., Room TW-A325  
Washington, D.C. 20554

***Re: Notice of Ex Parte Communication***  
***Developing a Unified Intercarrier Compensation Regime***  
***CC Docket No. 01-92***

Dear Ms. Dortch:

This letter is to inform you that on April 19, 2007, Sprint Nextel Corporation, through its representatives, Laura Carter, Anna Gomez and Charles McKee, along with T-Mobile USA, Inc., through its representatives Amy Wolverton and Eric Hagerson, met with Albert Lewis, Victoria Goldberg, Jay Atkinson, Deena Shetler, and Lynne Engledow of the Wireline Competition Bureau to discuss the issue of “Phantom Traffic.”

The attached document was used as the basis for discussion.

Pursuant to Section 1.1206 of the Commission’s rules, this letter is being electronically filed with your office. Please let me know if you have any questions regarding this filing.

Sincerely,

**Sprint Nextel Corporation**

/s/ Charles W. McKee  
Charles W. McKee

cc: Albert Lewis  
Victoria Goldberg  
Jay Atkinson  
Deena Shetler  
Lynne Engledow

## **“PHANTOM TRAFFIC”**

- **The Missoula Interim Proposal is Not a First Step to Intercarrier Compensation Reform.**
  - “Phantom Traffic” is a byproduct of the existing disparate rate structures and the application of antiquated rules to new technology.
  - As noted by USTelecom, phantom traffic is “just one symptom of an underlying disease: today’s broken intercarrier compensation regime.”<sup>1</sup>
  - The Interim Proposal does not advance the implementation of a unified rate plan. On the contrary, it distracts the Commission from real reform.
- **The Missoula Interim Proposal Will not Resolve Existing Phantom Traffic Disputes.**
  - As the Missoula supporters acknowledged in their most recent filing, “call signaling rules do not resolve legal disagreements within the industry about appropriate compensation levels for traffic, e.g., IP-PSTN, intraMTA, virtual FX, etc.”<sup>2</sup>
  - The Missoula proposal will not resolve the technical causes of “Phantom Traffic.” The traditional LEC practice of determining jurisdiction based upon the calling and called parties telephone numbers cannot be applied to inherently mobile services, including nomadic VoIP.
  - The Missoula proposal simply ignores the fact that the majority of the Public Switched Telephone Network is now wireless.
  - The FCC has acknowledged that the appropriate means for resolving the measurement of wireless traffic is through factors and contract negotiation. Moreover, ILECs were expressly granted the right -- previously reserved to competitive carriers -- to demand such contract negotiations.<sup>3</sup>
- **Qwest’s Proposed Reforms to the Existing Intercarrier Compensation System Are Absurdly One-Sided.**
  - Qwest acknowledges that the Missoula Interim Proposal will not resolve the “broader phantom traffic” problem associated with traffic exchange.<sup>4</sup>

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<sup>1</sup> USTelecom Comments at 3.

<sup>2</sup> AT&T Ex Parte presentation, March 16, 2007.

<sup>3</sup> *In re T-Mobile Petition for Declaratory Ruling Regarding Incumbent LEC Wireless Termination Tariffs*, Declaratory Ruling and Report and Order, 20 FCC Rcd 4855 (2005).

<sup>4</sup> Qwest ex parte presentation, March 16, 2007, p. 3.

- Qwest proposes that the appropriate means of addressing these disputes would be to resolve most intercarrier compensation disputes in their favor, including elimination of the intraMTA rule. Although not stated explicitly, Qwest presumably also advocates that wireless carriers begin imposing access charges on all traffic originated by incumbent local exchange carriers and all interexchange carriers.
- An alternative would be to eliminate all inter and intrastate access charges and move to a bill and keep system, thus requiring incumbent local exchange carriers to rely on payments by their own customers rather than subsidies from their competitors.
- Any such major changes, however, would presumably need to be part of an overall restructuring of intercarrier compensation.

- **South Dakota Proposal**

- South Dakota has passed legislation which permits incumbent local exchange carriers to impose the highest possible rate for unlabeled traffic, effectively changing the FCC's jurisdictional rules.
- Sprint strongly opposes any proposal which gives incumbent local exchange carriers the authority to impose new rates based upon their own interpretation of the sufficiency of data received or interpretation of jurisdictional parameters.
- Sprint agrees with the New Jersey Division of Rate Counsel that "the Commission should refrain from adopting any plan which conveys upon the ILEC the position of final arbiter as to who is responsible for access charges."<sup>5</sup>
- As noted above, wireless carriers cannot provide real time information which establishes the jurisdictional nature of the traffic they originate. Such a rule would simply subject all wireless traffic to the highest rate possible.

- **The Role of Transit Providers in Phantom Traffic**

- The discussion of Phantom Traffic highlights the role of transit providers and the bottleneck control they exercise over the telecommunications network.
- Any order addressing Phantom Traffic should ensure that transit providers are required to continue providing interconnection, including through routes to other carriers, under the provisions of Section 251 and 252 (d)(2) of the Act.

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<sup>5</sup> Comments of the New Jersey Division of Rate Counsel, p. 6.

- If the Commission establishes new signaling obligations for the identification of traffic, it should also prohibit incumbent local exchange carriers from requiring traffic segregation based upon the jurisdiction or type of traffic.
- If ILECs can identify the party responsible for payment and the rate to be applied based upon signaling information, there is no longer a need for the inefficient and costly redundant facilities currently in place for access and local traffic.
- **Confirm that Any Action on Phantom Traffic Does Not Change Existing Intercarrier Compensation Rules Unless Part of Overall Reform.**
  - Until the FCC addresses comprehensive reform, it should confirm that it is not changing existing law, including:
    - The continued validity of the intraMTA rule
    - Carrier rights regarding rating and routing of traffic
    - Dialing parity obligations
    - Right to indirect interconnection